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The Ghost of Cigarette Advertising Past

by John E. Calfee

John E. Calfee is a resident scholar at the American Enterprise Institute. He is completing two books: Regulating Medical Progress: The Growth of FDA Controls Over Health Care Technology *and, with Paul H. Rubin,* Indicating Liability: How the System Raises Prices and Increases Risk. *This article is reprinted from* Regulation, Vol. 10, No. 02, 1986. *In light of the current debate over the regulation of cigarettes, this eleven year old piece concerning the consequences of limiting tobacco advertising is particularly relevant and, indeed, prescient.*

The past eleven years have seen immense changes in the politics of tobacco. However, economic incentives are timeless. Beleaguered manufacturers understand consumer concerns about smoking and in the print media—where they still can place ads—they advertise accordingly. The additive-free Winston and the nearly smokeless Eclipse are but the latest examples. Yet misguided critics still attack the ads and the cigarettes because they cannot abide the notion of a better cigarette not preapproved by the government.

The comprehensive cigarette "settlement" likely will rest on the assumption that cigarette advertising has exactly the opposite of its intended effects. Moreover, policy makers, the public, and the media probably will assume that it was the Federal Trade Commission and the Department of Health and Human Services that pushed for safer cigarettes two or three decades ago, and it was the industry that stopped it—whereas the truth is the opposite.

John E. Calfee

Cigarettes advertising is back in the news. In February 1986, the American Medical Association proposed that the federal government ban all advertising and other promotion of cigarettes. The new policy would apply primarily to magazine and billboard advertising since cigarette advertising on television is already prohibited. The AMA's proposal has been embraced by public health groups, scholars, and pundits such as George F. Will. Legislation to implement the ban has been introduced in the House and Senate, and the Surgeon General of the United States, long the pointman for federal antismoking advice and policy, has testified in support of the legislation.

Support for the ban is inspired by many factors, not the least of which is the nature of cigarette advertising itself. Most cigarette advertising today unabashedly promotes the pleasures of smoking—even the pleasures of life—with no mention of health hazards except as required by law. Advertisements carry fine-print notices of the brand’s "official" tar and nicotine content as measured by the Federal Trade Commission (the result of an agreement between the FTC and the cigarette manufacturers), and carry a mandatory, government-written health warning. Otherwise, the only hint of health problems is in advertisements for a few ultra-low-tar brands, and these are decidedly oblique ("If You Smoke, Please Try Carlton"). With advertising devoted almost exclusively to promoting the *desirability* of smoking, it is not surprising that many who believe smoking is undesirable also believe we would be better off without advertising.

But where does the simple, upbeat message of cigarette advertising come from? The answer probably seems obvious to most people. Cigarette advertising serves the interests of the cigarette manufacturers, and what the manufacturers want is to promote smoking and keep cigarettes and health worries as far apart in the public mind as possible. Government regulation must be responsible for what little health information there is in cigarette advertisements. That is the view I was taught—dressed up in the language of "market-failure"—when I went to work at the FTC as a staff economist in 1980.

But this common-sense view is wrong. A look at the history of cigarette advertising suggests that today’s sanitized advertising copy probably would have come about, and most certainly would not have persisted, in the absence of FTC regulation. When cigarette advertising was regulated, competition among manufacturers routinely led to advertisements containing information on the health effects of smoking—much of it in blunt and provocative language—even though this was sometimes highly destructive to the interests of the cigarette industry as a whole. Health advertising was an effective means of promoting one brand over another and thus was an important weapon for smaller firms seeking to wrest business from larger firms. This competition also brought rapid improvements in cigarette design in the wake of pronouncements by medical experts that changes were desirable. FTC regulation served to halt these beneficial developments, sometimes with stunning effect. Based on an unreal view of advertising as an austere science—a view that invariably coincided with the economic interests of the cigarette manufacturers —FTC regulation reduced the information content of advertising and eliminated an important and socially desirable form of competition among manufacturers. Today’s triple-filtered cigarette advertisements are as much the work of Pennsylvania Avenue as of Madison Avenue.

COFFIN NAILS AND SMOKER’S COUGH

The history of cigarette advertising is a story punctuated by striking new health information and regulatory intervention. The first and longest era extends from the 1920s, when the mass market for cigarettes reached maturity, to the year 1950. In these years the Camel, Lucky Strike, and Chesterfield brands accounted for more than 80 percent of all cigarette sales. We tend to remember this era as one in which smoking was considered glamorous, even romantic. But at the time, popular opinion about smoking was also expressed in such unglamorous terms as "coffin nails" and "smoker's cough," not to mention "weed," "gasper," "wheezer," and "lung duster." The symptoms of smoking, especially "smoker's cough," were alarming enough to arouse popular suspicion and authoritative abhorrence. Athletic coaches warned athletes to avoid tobacco. Popular heroes such as Henry Ford and Thomas Edison publicly denounced cigarette smoking. In the early 1920s, legislation was introduced at the state level to restrict or even prohibit cigarette smoking. Many physicians were deeply suspicious of smoking's effects, though few argued there was conclusive evidence of mortal long-term effects. *Consumer Reports* noted in 1938 that "unbiased scientists have tried to determine the harmfulness of smoking and have tried, on the whole, in vain."

From the beginning, therefore, cigarette companies faced the problem of promoting a product surrounded by adverse health suspicions. Far from suppressing smokers' fears or pretending they did not exist, manufacturers put these fears to work as sales tools. Symptoms inspired slogans: "Not a cough in a carload" (Chesterfield); "Not a single case of throat irritation due to smoking Camels"; "Smoking's more fun when you're not worried by throat irritation or smoker's cough" (Philip Morris); "Remember Juleps, forget your cough" or "Cause no ills" (Chesterfield); and "Why risk sore throats?" (Old Gold), to name a few. The cigarette companies were unrelenting in their use of "the health theme," as it was called. A favorite advertising technique was to appeal to medical authority and research. Medical opinion and scientific studies did not support a blanket indictment of smoking, and this was used to advantage in cigarette advertising.

The purpose of health advertising was to distinguish one brand from the competition; its side effect was to remind consumers constantly of the worrisome symptoms associated with smoking. Indeed this point was considered obvious. In the midst of the "cancer scare" in 1953, *Business Week* ran a story attributing the success of the cigarette companies in establishing their market in the 1930s and 1940s to "screaming at the top of their lungs about nicotine, cigarette hangovers, smoker's cough, mildness, and kindred subjects."

Cigarette companies also advertised the perceived benefits of smoking, such as providing a "lift," a moment of relaxation, superior concentration, diminished appetite, and so on. But even in these cases health concerns were not far from the forefront. "Lung surgeons need strong nerves," read on masterpiece of insinuation. On occasion, manufacturers even advertised the advantages of cigarettes over substitutes. In the mid-1920s, George Washington Hill, the brilliant and mercurial president of the American Tobacco Company, conceived the advertising slogan, "Reach for a Lucky instead of a sweet." The advertising campaign that followed—an instant classic—provoked a vigorous counterattack from the sugar and candy industries (all entertainingly recounted in a 1929 issue of *The New Republic*). Both sides relied on health information as a weapon. Candy sellers distributed antismoking brochures. Lucky Strike responded with an advertisement that said, "the authorities are overwhelming that too many fattening sweets are harmful and that too many such [sweets] are eaten by the American people." The candy sellers' truth-in-advertising squad easily met Lucky's challenge, however:

> Do not let anyone tell you that a cigarette can take the place of a piece of candy. The cigarette will inflame your tonsils, poison with nicotine every organ of your body, and dry up your blood—nails in your coffin.

The war of words continued using phrases the American Cancer Society has yet to improve on. Eventually a truce was arranged, reportedly aided by the FTC—a harbinger of policies to come.

HEALTH CLAIMS HELD DECEPTIVE

In the 1940s, the FTC commenced its first major effort to rid cigarette advertising of health claims. Concerned about the veracity of advertisements that claimed health differences among cigarette brands, the commission brought a series of advertising deception cases focusing on the frequent references to coughs, throats, lungs, and doctors. It was the commission's view, based on a large volume of expert testimony, that all major brands were essentially identical; moreover, they were bound by technology to remain identical.

Beginning in 1950, the commission issued cease-and-desist orders against nearly all the large cigarette companies. In its 1950 opinion in the R. J. Reynolds Tobacco Company case the commission found that *all* popular cigarettes were harmless for healthy smokers:

> The record shows . . . that the smoking of cigarettes, including Camel cigarettes [the target of R. J. Reynolds advertisements] in moderation by individuals . . . who are accustomed to smoking and who are in normal good health . . . is not appreciably harmful.

It was a matter of simple logic, therefore, that any claim that one brand was less harmful than another was false. On these grounds, comparative health claims—"less smoker's cough," for example—were prohibited. The FTC imposed a similar ban in its order against the American Tobacco Company in 1951, although by then it had stopped claiming that smoking was harmless, for reasons described below.

Claims that cigarettes offered different levels of tar and nicotine were a particular concern of the commission. This was evident in the American Tobacco opinion and another opinion on advertising for the P. Lorillard Company's Old Gold brand. The commission decided that it was technically impossible to manufacture cigarettes with significantly reduced tar or nicotine. It therefore prohibited comparative tar and nicotine or "irritation" claims for the brands involved (Lucky Strike and Old Gold). The fact that the commission chose to prohibit tar and nicotine claims, rather than requiring the firms to wait until they possessed substantiation for such claims, meant that low-tar versions of these brands could be introduce only after a lengthy public process to modify the FTC orders. Both the commission and the reviewing courts expressed satisfaction with this situation on grounds that it was extremely unlikely that lower tar or nicotine cigarettes would ever be developed using standard tobaccos.

When the 1950 order against R. J. Reynolds was announced, the commission made it known that it would attempt to extend the main provisions of the order to the other cases nearing completion. It was widely believed that the commission was close to its goal of eliminating "the health theme" from cigarette advertising. As *Business Week* described the situation, "The [FTC order] was so sweeping that it knocked down just about every idea thought up to get you to smoke one brand of cigarettes instead of another."

The FTC orders, however, had a loophole: They applied to specific cigarette *brands*, not to new brands the manufacturers might subsequently introduce. And just as the orders were being handed down stunning new health information appeared—and along with it new incentives to differentiate cigarettes based on health effects.

THE CANCER SCARE AND FEAR ADVERTISING

The cigarette market entered a new era in 1950 with the publication of two well-constructed epidemiological studies on smoking. The studies—published almost simultaneously with the FTC's R. J. Reynolds decision finding cigarettes "not appreciably harmful" to healthy smokers—revealed with unprecedented clarity a strong correlation between cigarette smoking and lung cancer. Additional studies appeared during the next few years, including a laboratory demonstration that cigarette tar could cause skin cancer in mice. This evidence, striking as it was, did not settle the scientific question whether smoking caused lung cancer. Pathologists noted the ease with which lung cancer was misdiagnosed, even after an autopsy. Epidemiologists and statisticians argued that one could not attribute cause when using statistical data that did not control for genetic or other possible causes. In 1954, *Reader's Digest* quoted the American Cancer Society, sponsor of some of the studies, to the effect that ". . . evidence to date justified the suspicion that smoking does, to a degree not yet determined, increase the likelihood of developing lung cancer." The Consumers Union's 1954 *Buyers' Guide* was similarly cautious: "Until final evidence is available, heavy cigarette smokers would be wise to cut their smoking to moderate levels—no more than a pack a day."

Neither the federal government nor the tobacco industry had much to say about all of this; smoking simply was not considered a matter of public policy. The response from individual cigarette manufacturers, however, was instantaneous. In 1952, P. Lorillardof the smallest manufacturers, with 6 percent of the market—introduced Kent, which had a filter that greatly reduced tar and nicotine. Liggett & Myers Tobacco Company, a mid-sized firm, introduced its filter brand, L&M, in 1953. And in 1954, the other four manufacturers, including the two dominant firms, American Tobacco and R. J. Reynolds, with combined sales of 59 percent of the market, followed with their own filter brands. By the end of 1954, filter brands accounted for more than 10 percent of cigarette sales. In 1950, before the cancer scare, filters accounted for just 1 percent or 2 percent of cigarette sales, and only the smallest two of the six major cigarette manufacturers even had filter brands.

The new brands were advertised aggressively and, as in earlier years, the cigarette companies sought to gain business by scaring smokers about competitors' brands. Kent advertisements said, "sensitive smokers get real health protection with new Kent" and "[Kent] takes out more nicotine and tars than any other leading cigarette—*the difference in protection is priceless*." Television advertisements showed the dark residue left by tobacco smoke on Kent's filter. Viceroy advertised "double-barreled protection," and said "*filtered* smoke is better for your health." The new L&M filter was "just what the doctor ordered." Some traditional brands that had avoided FTC prosecution joined the fray. Chesterfield advertisements were built around a huge headline, "NOSE, THROAT, and accessory organs not adversely affected by smoking Chesterfields," and included descriptions of a report by a "medical specialist." In a widely discussed advertisement, Philip Morris Inc. said of its brand, "takes the fear out of smoking," and "stop worrying . . . Philip Morris and only Philip Morris is *entirely free* of irritation used [sic] in *all other* leading cigarettes." As *Business Week* put it, the market saw an "avalanche of advertising" featuring "doctors, filters, tars." It concluded: "widespread fear that cigarettes may induce lung cancer is making the cigarette manufacturers turn some strange somersaults."

This promotional style, dubbed "fear advertising," was controversial. The controversy, however, was not of the sort familiar today, with congressmen chastising the industry for putting profits ahead of social responsibility and scholars debating the welfare consequences of alternative regulatory measures. The topic of debate in the early 1950s was the effect of fear advertising on the cigarette industry. The consensus seemed to be that fear advertising was bound to hurt sales. *Business Week* noted that the industry's practice of "pounding harder on the health theme, which could drive away even more smokers than the critics say have already been driven away . . . doesn't make sense." The article posed the obvious question: "Why has the industry persisted in this negative form of advertising even when, as tobacco growers and others complain, it hurts the trade by making people conscious that cigarettes can be harmful?"

The answer was that the interest of individual manufacturers were different from those of the cigarette industry as a whole. Advertising that appealed to smokers' fears could indeed reinforce those fears and thereby suppress market-wide demand, but such advertising could also divert sales toward the advertised brands. Whether "fear advertising" paid off for any one company therefore depended on the relative impact of those two effects, and small companies were the ones most likely to find such advertising profitable. Without FTC intervention, the profit incentive led the cigarette industry to do what it would have preferred to avoid.

Market data is spectacularly consistent with that view. Whereas the two dominant cigarette manufacturers, R. J. Reynolds and American Tobacco, never employed the fear technique, all four smaller firms did. The effect on sales was unprecedented. Annual per capita sales, which had risen virtually without interruption since 1931, declined 3 percent in 1953 and an additional 6 percent in 1954. Nothing like this has happened since. Even during the years since 1964—beginning with the Surgeon general's Report in that year, followed by the mandatory health-warning labels introduced in 1965, the antismoking television commercials of the late 1960s, the ban on television advertising in 1971, the federal antismoking campaign in the late 1970s, and the cigarette tax hikes of recent years—there has been no period in which cigarette sales suffered as badly as during the period of fear advertising in 1953 and 1954.

The turmoil of the early 1950s left the cigarette market permanently transformed. Between 1950 and 1955, the share of the market accounted for by the top five "regular" (nonfilter) brands dropped from more than 90 percent to 50 percent. Of the six major manufacturers, the only one to gain sales in the disastrous year of 1954 was Brown and Williamson, one of the smallest firms and the only one that concentrated on filter brands.

THE FTC RESPONDS

This remarkable period came to an end largely as a result of heightened federal intervention. In the fall of 1954, the FTC circulated a draft set of "cigarette advertising guides" that applied to the entire industry and closed the loophole in its brand-specific decrees. The new rules prohibited all references to "throat, larynx, lungs, nose or other parts of the body," or to "digestion, energy, nerves or doctors." A later press release emphasized that "no advertising should be used which refers to either the presence or absence of any physical effect of smoking." The guides also prohibited all tar and nicotine claims "when it has not been established by competent scientific proof . . . that the claim is true, and if true, that such difference or differences are significant." At the same time, the guides explicitly permitted the advertising of taste and pleasure.

Cigarette advertising changed tack within a matter of months, and indeed was already in conformance with the FTC guides by the time they were formally issued in the fall of 1955. Gone were the advertisements that showed dark stains on filters or referred to the fears of smoking or even improved cigarettes. In their place were advertisements featuring good taste and pleasure. In 1956, *Printer's Ink* summarized the metamorphosis in advertising:

> The saga of cigarette advertising for 1955 filters down to this: Good taste took over. Advertising copy stressed good taste, flavor and enjoyment consistently. Advertisements themselves, on the whole, seemed in better taste. By and large, whatever grim messages remained form the health scare days gave way to pleasant, almost "Pollyanna" prose. . . . [I]t's doubtful that any major cigarette again will be stampeded into a campaign like, "Take the fear out of smoking." Or even, "Just what the doctor ordered." The 1955 comeback should have taken care of that. . . .[T]he chances are that advertisers will stick to cajoling the smokers with soft, "gentle" phrases and oh-so-gay jingles.

What is now most deplored about cigarette advertising—its consistently upbeat quality, the alluring portraits of the joys of smoking at work and play, with hardly a mention of health risks other than the stilted warnings required by law—dates from the year 1955. When the 1955 guides banished talk of coughs and doctors, they removed the most potent weapon small firms had for harassing big ones. Cigarette sales rebounded forcefully in 1955 and continued strongly through the late 1950s and early 1960s, even in the face of new, more compelling cancer reports. The press duly noted that although the FTC guides rested upon questionable legal grounds, "the Commission is evidently relying on the industry's worry over the cancer scare to get compliance to the code."

THE GREAT TAR DERBY

After 1955, the fear of cancer persisted but most means for exploiting that fear through advertising were foreclosed. What remained was the popular hope that filtered cigarettes would be safer than unfiltered ones. Filter brands were advertised heavily (without mentioning health) and their share of the market grew spectacularly—from 10 percent in 1954 to 35 percent in 1957. The public did not know how well the filters performed, however, because the FTC guides expressly prohibited tar and nicotine claims that lacked "competent scientific proof."

Then, in 1957, the cigarette market suffered another informational jolt. As more studies linking smoking and lung cancer were published, health experts began arguing that reducing the tar content of cigarettes was likely to reduce the risk of lung cancer. Attention quickly focused on the newly popular filter cigarettes whose tar and nicotine yield had not yet been publicly revealed. (The last *Consumer Reports* ratings had been published in 1953, before most filter brands were introduced.) Congressional hearings were held on filter cigarette advertising, new tar and nicotine ratings were published in *Consumer Reports*, and a two part series on cigarette filters appeared in *Reader’s Digest*. All reached the same disturbing conclusion that filter cigarettes had been so greatly modified to enhance flavor that their tar and nicotine yield was generally no better than that of nonfilter cigarettes. Kent yielded six times more tar than in 1952 tests. In 1947 the special filter invented for Kent was discarded altogether in favor of the usual, less effective type.

This news triggered the great "Tar Derby." Notwithstanding the FTC guides, vigorous advertising of tar and nicotine content returned, new filter brands were introduced, existing filters were improved (especially Kent’s), and, in a development the FTC had earlier declared to be technically impossible, the tar and nicotine content of nonfilter cigarettes was substantially reduced. *Reader’s Digest* published regular reports on the tar and nicotine content of different brands the tar and nicotine content of different brands, and *Consumer Reports* began publishing ratings on a monthly basis, carefully noting which brands had improved.

The FTC guides continued to prohibit tar and nicotine claims not based upon sound scientific data—but with so much noncommercial data on the subject being ventilated in technical journals and the popular press, the "sound scientific data" qualification had become another large loophole in the commission’s policy. References to tar and nicotine in advertisements now relied upon competent third-party data, usually that reported in *Reader’s Digest*. There apparently were no problems with firms using tests designed to favor their own brands.

The effect on cigarettes was spectacular. After remaining virtually unchanged for three decades, tar and nicotine levels (sales-weighted) dropped nearly 40 percent between mid-1957 and the end of 1959. Nothing like this has happened since. A rough guess is that half of all the improvement in cigarettes since 1957 occurred in this period of less than two years. Those tar-laden fixtures of the past—the original Camels, Lucky Strikes, and Chesterfields—disappeared from U.S. markets, to be replaced by filter versions, nonfilter versions with substantially lower tar and nicotine, and new brands. These changes in cigarettes marked a breakthrough in public health. According to epidemiological studies of lung cancer conducted years later, these (and subsequent) tar reductions led to roughly proportionate decreases in death rates.

These salutary developments, like those during the cancer scare five years earlier, were powerfully aided and abetted by individual firms attempting to exploit health information to their own advantage. Whereas in the early 1950s the advertising played directly on health fears ("takes the fear out of smoking"), in the late 1950s the appeals, constrained by the FTC guides, were necessarily indirect, with tar levels used to connote health effects. But again, the dynamics of competition among firms with divergent interests dominated events. The smaller firms vigorously and successfully advertised comparative and absolute levels of tar and nicotine with a variety of claims: "lowest tar of all low-tar cigarettes;" "today's Marlboro—22 percent less tar, 34 percent less nicotine;" "less tars and more taste . . . they said it couldn't be done." Even the largest firms, which were known to fear the effect of tar and nicotine advertising on sales, improved their filters and advertised their filter brands heavily, though they avoided explicit mention of tar and nicotine.

THE FTC TIGHTENS ITS GRIP

The climax of the Tar Derby came suddenly in the fall of 1959. All six cigarette manufacturers introduced new lower tar brands and were in the process of mounting major advertising campaigns, when the FTC intervened. In December 1959, the FTC's Bureau of Consultation (predecessor to today's Bureau of Consumer Protection) began secret negotiations with the six companies. The FTC staff explained two simple (though previously unknown) legal points. First, *all* claims about levels of tar and nicotine would henceforth be regarded as *implied* claims of positive health effects. Second, epidemiological evidence of these health effects would henceforth be required. As everyone realized, such evidence did not exist and could not be developed for many years, since lung cancer was the relevant health effect and it was a disease of low incidence (even among smokers) and many years' gestation. The required evidence being unavailable, all tar and nicotine advertising was illegal in the commission's view.

Early in 1960, the commission announced it had negotiated a "voluntary" industry-wide ban cleaned up nearly instantaneously. Kent advertisements changed from "significantly less tars and nicotine than any other filter brand" to "designed with your taste in mind." P. Lorillard reintroduced the unfiltered king-size version of Old Gold, and announced that the advertising theme would be "tender to your taste." *Printer's Ink* summed up the changes:

> The pendulum swung back again in cigarette advertising during 1960. Completely erased, at the "urging" of the Federal Trade Commission, are the boxscores on tar and nicotine. Once more the industry is back to its traditional and usually successful course—advertising flavor, taste and pleasure against a backdrop of beaches, ski slopes and languid lakes. It is a formula that works, as all-time high sales show. . . . And this new mood in advertising will probably prevail for some time, now that the FTC has insisted that wildly competitive copy is generally distasteful.

For the next six years, cigarette advertising was bereft of references to tar and nicotine, and information on tar and nicotine from other sources nearly disappeared as well. *Consumer Reports* stopped publishing tar and nicotine ratings, although *Reader's Digest* continued to do so occasionally. It was widely anticipated that the new low-tar brands were doomed. As one advertising professional noted of the FTC intervention: "[Y]ou build a better mousetrap and then they say you can't mention mice or traps."

The market responded as one would have expected. The steep decline in tar and nicotine content was virtually halted. Data on this period are far from perfect, but we do know that when *Reader's Digest* measured selected brands in 1961 and 1963, the patience of this most loyal of antismoking crusaders was finally exhausted:

> What Happened to Filter-Tips in 1961-63? The question can be answered in one word: Nothing. The latest laboratory tests . . . show the tar and nicotine in the smoke of current filter-tip cigarettes to be substantially the same as when the last report was published in July 1961. (The same is true of most popular plain-tip brands—no significant change.) The reason for this is the FTC "black-out" of facts and figures in cigarette advertising in 1961. Since no claims of superior or improved filtration can be made, cigarette manufacturers have quit trying to produce "safer" cigarettes lower in tar and nicotine. Between 1957 and 1960, such competition reduced the tars in American cigarette smoke by 60 percent. When the "tar derby" ended, so did research for safer cigarettes.

New health information continued to accumulate, and soon the government assumed an active role in the public debate. A 1962 report by the British Royal College of Physicians concluded that smoking caused lung cancer and probably caused other more common illnesses such as coronary heart disease. The ensuing publicity in this country led to the formation of a special advisory committee by the Surgeon General. The committee's report—the famous Surgeon General's Report on Smoking and Health—arrived with great publicity in January 1964. Its conclusions, drawn from a vast review of the literature, were essentially the same as those of the Royal College of Physicians two years earlier.

The political impact of the Surgeon General's Report was enormous. Within weeks, the FTC published a draft trade rule requiring health warnings in advertisements. Legislation was enacted in 1965 requiring warnings on labels (and placing a moratorium on the FTC rule). In the same year, the cigarette industry adopted a highly successful advertising code that ended celebrity endorsements and other traditional appeals, especially to youth by means of on-campus promotions and similar devices. The code also, however, discouraged promotional techniques such as trade names for filters (Kent's "Micronite" name, for example, was banned), further reducing the stock of code phrases used to remind smokers of health fears. *Time* magazine noted in 1966 that "between the federal Trade Commission and their own industry's self-imposed Cigarette Advertising Code, cigarette salesmen have just about been reduced to saying that a smoke is a smoke."

All of this had remarkably little effect on the market. Per capita cigarette consumption declined in 1964 (by 3.5 percent), but rebounded in 1965 and 1966. Cigarette content hardly changed. Changes had been anticipated, as evidenced by the fact that within days of the *Surgeon General's Report*, one manufacturer announced a new filter brand that would be marketed using explicit reference to tar levels. but this plan was forestalled by the FTC's announcement that it would continue to prohibit all references to tar and nicotine. The profound market changes of the 1950s vastly exceeded anything that happened in the wake of the *Surgeon General's Report*. The changes of the 1950s were driven by advertising under the force of competition for the business of frightened smokers. Nothing like this was possible under FTC regulation in the 1960s. While the relatively unregulated advertising of the 1950s amplified the market effects of new information, the severely restricted advertising of the mid-1960s apparently dampened those effects.

THE FTC COMES FULL CIRCLE

The attitude of the federal government toward cigarette advertising shifted markedly in 1966. In that year the FTC, acceding to appeals from the American Cancer Society and others, reversed its long-standing policy and authorized tar and nicotine advertising. The commission notified cigarette companies that tar and nicotine claims would no longer be treated as implied claims of reduced health risks, though this, of course, is precisely what they were. The new policy was justified on grounds that some experts believed that lower tar content was healthier, and that tar and nicotine advertising should be encouraged to provide consumers with "as much information about the risks involved in smoking as is possible."

The FTC's new stance was not the only bit of irony. The industry's advertising self-regulation group vigorously objected to the new policy. Practically quoting recent FTC pronouncements, the industry noted there was still no epidemiological evidence that reduced tar meant improved health, which was true. But in short order two of the smaller firms withdrew from the industry group, and tar and nicotine advertising resumed.

Four years later, in 1970, the regulation of tar and nicotine advertising came full circle. The FTC negotiated written pledges from all six manufacturers that they would include tar and nicotine measures in all advertisements. (The measures are from the FTC's own program for measuring tar and nicotine content, begun in 1967.) Health claims in advertisements were essentially forbidden, however, as the FTC maintained its virtual ban on claims "that smoking one brand is less harmful than smoking another brand." There was more than a little irony in this too. In the 1940s the commission worked hard to prohibit comparative health claims because all cigarettes were equally harmless. Now the reason was that all cigarettes were equally dangerous. As one legal commentator noted in 1969:

> If you must, the PHS [Public Health Service] urges you to smoke filter cigarettes; however, a tobacco company caught advertising that filters are safer than nonfilters will be prosecuted by the FTC for false and deceptive selling.

The Congress also acted in 1970 when it banned all cigarette advertising on television and radio. Two years later the FTC required that cigarette advertisements carry the same "Surgeon General's warning" required on cigarette packaging.

Government regulation of cigarette advertising has remained essentially unchanged since 1972. The forces of "destructive competition" that once fostered advertising focused on the deleterious health effects of smoking have been channeled into advertising focused either on the delights of smoking or on spare, unadorned references to tar and nicotine levels in ultra-low-tar brands--the two themes that remain relatively unconstrained. Negative health evidence has continued to mount, social attitudes toward smoking have changed, and cigarette consumption had declined steadily but slowly. Is there any reason to doubt it would have declined faster in the face of a new wave of fear advertising or another unbridled Tar Derby?

CONCLUSION

The ghost of cigarette advertising past haunts cigarette manufacturers and regulators alike. When cigarette manufacturers see detailed full-page advertisements, like the one for Carlton which begins, "If You Smoke . . . some useful information for those who want to smoke ultra low tar," they must wonder whether restraints on self-destructive appeals to fear are secure. The potential gains to individual firms from fear advertising are probably larger than ever today. Vigorous regulation may be the only thing that prevents a renewal of such appeals.

Regulators, too, may be (or should be) looking over their shoulders at specters from the past, wondering about their ability to improve the welfare of consumers by limiting the information and appeals that sellers direct their way. Those who would abolish the remaining conventional forms of cigarette advertising—print media and billboards—no doubt believe that a ban will be beneficial where partial restrictions were not; and of course there is no way this belief can be disproved. But the fact remains that successive restrictions on advertising have tended to undermine improvements in cigarettes while doing nothing to reduce smoking. We cannot assume that regulators today are more clever or farsighted than they were in 1950, 1955, 1960, and subsequently. The advertising banners, like the smokers they seek to help, are bucking the odds.

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